IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2285 OF 2007

Shaila Vikshnu Amberkar & Ors ....Petitioners.
V/s
Dhanad Vinod Amberkar & Ors. ....Respondents.

Mr.H.S.Shreepad Murthy, Adv. For the petitioners.

CORAM: A.P.DESHPANDE, J.
2/8/07

PC:

The respondent No.3 is the wife of one Vinod whereas respondent Nos.1 and 2 are minor children. Respondents instituted suit for partition of joint family property wherein according to the plaintiffs Vinod had a share and thus a claim for partition and separate possession of the property is made. Besides the said relief one more relief is claimed wherein challenge is to the will executed by father of Vinod. The present petitioners are in possession of the entire joint family property. The suit has been instituted by paying some court fee stamp and hence present petitioners raised objection that on account of failure on the part of respondent to pay court fees the plaint be returned. Before the trial Court respondents claimed exemption from payment of court fee stamps under notification issued under section 46 of the Bombay Court Fees Act which exempts a woman from payment of court fee stamp when the

property which is the subject matter of suit is covered by the notification. Respondents have contended that they have no means to pay court fee stamps. The trial Court has deferred the adjudication of the said issue by holding that the suit can proceed and appropriate orders in regard to court fee stamps can be passed later on at the time of disposal of the suit and the court fees stamps can be recovered. Perused the order. Same does not call for interference. Hence writ petition stands summarily dismissed.

2.8.07